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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,703	03/05/2002	Jin Yong Kim	2080-3-69	2493

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EXAMINER

AGUSTIN, PETER VINCENT

ART UNIT PAPER NUMBER

2652

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/092,703		KIM, JIN YONG	
	Examiner		Art Unit	
		Peter Vincent Agustin	2652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005 and 17 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7,8 and 10-22 is/are pending in the application.
- 4a) Of the above claim(s) 11-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-5,7,8 and 10-22 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/2/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-5, 7, 8 & 10-22 are now pending.

Election/Restrictions

2. Applicant's election of Group I (A), i.e., claims 1-5, 7, 8 & 10, in the reply filed on August 17, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

3. Claims 11-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention(s), there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 17, 2005.

Priority

4. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

5. Claim 1 is objected to because of the following informalities:

Claim 1, lines 8-9: "which is a counterpart" should be --which writable recording medium is a counterpart--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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7. Claims 1-5, 7, 8 & 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. In claim 1, lines 7-8, the phrase “is equal to that of a predetermined data unit” is indefinite because it is not clear whether it refers to a size of the first data type, a size of the second data type, or both.

Claims 2-5, 7, 8 & 10 are dependent upon claim 1.

b. Claim 2 recites that “the first and second data types are located at a user data area”, which is inconsistent with the recitation in base claim 1 that “the second data type does not contain the user data”.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 2, 4, 5 & 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kikuta (JP 05040663, please refer to the machine translation).

In regard to claim 1, Kikuta discloses a read-only recording medium (Drawing 1, element 1) containing recorded data, wherein a first data type (abstract, constitution: “valid data”) including user data is recorded and a second data type (abstract, constitution: “invalid”) is placed at a predetermined interval between first data types, wherein the second data type does not contain the user data, wherein a size of the first data type and the second data type is equal to that

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of a predetermined data unit to be used in a writable recording medium, which is a counterpart of the read-only recording medium, the predetermined data unit including user data and invalid data (abstract, constitution: "Both invalid and valid data are written into each area of a CD-ROM 1 and the areas of a magnetic disk 2 corresponding to those areas of the CD-ROM 1 respectively").

In regard to claim 2, Kikuta discloses that the first and second data types are located at a user data area (interpreted as the area in the disk 1 where the "valid" and "invalid" data area recorded) of the read-only recording medium.

In regard to claim 4, Kikuta discloses that the second data type includes an invalid data (abstract, constitution, line 1), wherein a size of the second data type is equal to that of the invalid data of the predetermined data unit to be used in the writable recording medium (abstract, constitution, lines 1-4).

In regard to claim 5, Kikuta discloses that the second data type is preceded or followed by the first data type areas (understood from the abstract).

In regard to claim 7, Kikuta discloses that a size of the second data type is equal to that of the invalid data to be allocated intermittently in the user data of a writable recording medium (abstract, constitution, lines 1-4).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuta in view of Zook (US 5,920,578).

For a description of Kikuta, see the rejection above. However, in regard to claim 3, Kikuta does not disclose that the first data type includes at least one error correcting code (ECC) unit, which includes an error correcting code.

Zook discloses a CD-ROM having a first data type including at least one error correcting code unit, which includes an error correcting code (column 1, lines 12-27). It would have been obvious to one of ordinary skill in the art at the time of the invention by the Applicant to have applied the teachings of Zook to the medium of Kikuta, the motivation being to obtain accurate and error-free reproduction of data (column 1, lines 17-20 and 25-27).

12. Claims 8 & 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuta in view of Kamoto et al. (US 5,708,649).

For a description of Kikuta, see the rejection above. However, Kikuta does not, but Kamoto et al. disclose: in regard to claim 8, that a plurality of pre-pits with each having the same length being formed in the second data type (column 8, lines 47-48: "pre-pits formed on a reproduced CD-ROM"); and in regard to claim 10, that signals produced from said plurality of pre-pits are used for servo-control (column 8, lines 46-47: "tracking error signal is generated by the reproduction of pre-pits").

It would have been obvious to one of ordinary skill in the art at the time of the invention by the Applicant to have applied the teachings of Kamoto et al. to the medium of Kikuta, the motivation being to prevent erroneous tracking (a well-known purpose of servo control), thereby maintaining accurate reproduction of data.

Response to Arguments

13. Applicant's arguments with respect to claims 1-5, 7, 8 & 10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

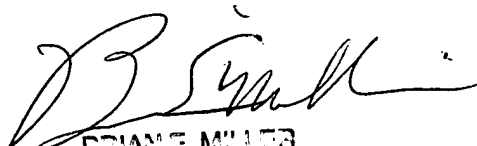
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Vincent Agustin whose telephone number is 571-272-7567. The examiner can normally be reached on Monday-Friday 9:30-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, A. L. Wellington can be reached on 571-272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Peter Vincent Agustin
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BRIANE E. MILLER
PRIMARY EXAMINER